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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT FOR
THE CENTRAL DISTRICT OF CALIFORNIA

DENSO CORPORATION, a Japanese
corporation

Plaintiff,

v.

Domain Name <denso.com>,

Defendant.

Case No. 2:14-cv-01050 LB
Hon Laurel Beeler

DEFENDANT'S ANSWER TO PLAINTIFF'S
FIRST AMENDED COMPLAINT
AND AFFIRMATIVE DEFENSES

NOW COMES Defendant <denso.com> (hereinafter "Defendant") by and
through its counsel, Enrico Schaefer and for its Answer to Plaintiff's First

1 Amended Complaint, states as follows:

2 1. Defendant admits the allegation in Paragraph 1.

3
4 2. Defendant neither admits nor denies the allegation in Paragraph 2 for
5 lack of knowledge and therefore leaves Plaintiff to its proofs and therefore denies
6 the allegation.

7
8 3. Defendant admits the domain name <denso.com> registered as a top
9 level domain with VeriSign registry, San Francisco, California, but nether admits
10 nor denies the balance of the allegations in Paragraph 3 and leaves Plaintiff to its
11 proofs.

12
13 4. Defendant acknowledges that Plaintiff brings the action *in rem* under
14 the ACPA but neither admits nor denies the balance of the allegations in
15 Paragraph 4 for lack of knowledge and leaves Plaintiff to its proofs.

16
17 5. Defendant admits that the Defendant Domain was the subject of an
18 UDRP proceeding but neither admits nor denies the balance of the allegations in
19 Paragraph 5 for lack of knowledge and leaves Plaintiff to its proofs.

20
21 6. Defendant neither admits nor denies the allegations in Paragraph 6
22 for lack of knowledge and leaves Plaintiff to its proofs.

23
24 7. Defendants admits the allegations in Paragraph 7.

25
26 8. Defendant neither admits nor denies the allegations in Paragraph 8.

27
28 9. Defendant neither admits nor denies the allegations in Paragraph 9

1 for lack of knowledge and leaves Plaintiff to its proofs.

2 10. Defendant neither admits nor denies the allegations in Paragraph 10
3 for lack of knowledge and leaves Plaintiff to its proofs.
4

5 11. Defendant admits the allegations in Paragraph 11.

6 12. Defendant admits the allegations in Paragraph 12.
7

8 13. Defendant neither admits nor denies the allegations in Paragraph 13
9 for lack of knowledge and leaves Plaintiff to its proofs.
10

11 14. Defendant neither admits nor denies the allegations in Paragraph 14
12 for lack of knowledge and leaves Plaintiff to its proofs.

13 15. Defendant neither admits nor denies the allegations in Paragraph 15
14 for lack of knowledge and leaves Plaintiff to its proofs.
15

16 16. Defendant neither admits nor denies the allegations in Paragraph 16
17 for lack of knowledge and leaves Plaintiff to its proofs.
18

19 17. Defendant neither admits nor denies the allegations in Paragraph 17
20 for lack of knowledge and leaves Plaintiff to its proofs.

21 18. Defendant neither admits nor denies the allegations in Paragraph 18
22 for lack of knowledge and leaves Plaintiff to its proofs.
23

24 19. Defendant neither admits nor denies the allegations in Paragraph 19
25 for lack of knowledge and leaves Plaintiff to its proofs.
26

27 20. Defendant neither admits nor denies the allegations in Paragraph 20
28

1 for lack of knowledge and leaves Plaintiff to its proofs.

2 21. Defendant neither admits nor denies the allegations in Paragraph 21
3 for lack of knowledge and leaves Plaintiff to its proofs.
4

5 22. Defendant neither admits nor denies the allegations in Paragraph 22
6 for lack of knowledge and leaves Plaintiff to its proofs.
7

8 23. Defendant neither admits nor denies the allegations in Paragraph 23
9 for lack of knowledge and leaves Plaintiff to its proofs.
10

11 24. Defendant neither admits nor denies the allegations in Paragraph 24
12 for lack of knowledge and leaves Plaintiff to its proofs.

13 25. Defendant admits that there was a UDRP proceeding and
14 determination issues on November 3, 2003 against a prior registrant of the domain
15 and further avers that the decision in the UDRP speaks for itself.
16

17 26. Defendant neither admits nor denies the allegations in Paragraph 26
18 for lack of knowledge and leaves Plaintiff to its proofs.
19

20 27. Defendant neither admits nor denies the allegations in Paragraph 27
21 for lack of knowledge and leaves Plaintiff to its proofs.
22

23 28. Defendant denies the allegations in Paragraph 28 as untrue.

24 29. Defendant admits the allegations in Paragraph 29.

25 30. Defendant admits that the current registrant has refused to transfer
26 the domain name to Plaintiff and neither admits nor denies the balance of the
27
28

1 allegations in Paragraph 30 and leaves Plaintiff to its proofs.

2 31. Defendant incorporates each and every response to the allegations
3 contained in the foregoing paragraphs as if fully set forth herein.
4

5 32. Defendant neither admits nor denies the allegations in Paragraph 32
6 for lack of knowledge and leaves Plaintiff to its proofs.
7

8 33. Defendant neither admits nor denies the allegations in Paragraph 33
9 for lack of knowledge and leaves Plaintiff to its proofs.
10

11 34. Defendant neither admits nor denies the allegations in Paragraph 34
12 for lack of knowledge and leaves Plaintiff to its proofs.

13 35. Defendant admits that the registrant of the domain is located in the
14 United Kingdom but neither admits nor denies the balance of the allegations in
15 Paragraph 35.
16

17 36. Defendant denies the allegations in Paragraph 36 because they are
18 untrue.
19

20 37. Defendant denies the allegations in Paragraph 37 because they are
21 untrue.
22

23 38. Defendant denies the allegations in Paragraph 38 because they are
24 untrue.
25

26 39. Defendant denies the allegations in Paragraph 39 because they are
27 untrue.
28

1 40. Defendant denies the allegations in Paragraph 40 because they are
2 untrue.
3

4 WHEREFORE Defendant respectfully requests that the court deny the
5 relief request in Plaintiff's Complaint and enter Judgment in favor of the
6 Defendant in this matter together with its costs and attorney fees.
7

8
9 Respectfully submitted this 7th day of January, 2014.
10

11 /s/ Enrico Schaefer
12 Enrico Schaefer (*Pro Hac Vice*)
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26 Attorneys for Plaintiff
27

28 **DEFENDANT'S AFFIRMATIVE DEFENSES**

1 1. Plaintiff's ACPA claim is barred by a Doctrine of Laches or Statute
2 of Limitations for failure to commence this action within a reasonable period of
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4
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6
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8

1 time after such claim accrued.

2 2. Plaintiff's claims are barred under the Doctrine of Estoppel based
3
4 upon the current registrant's investment of resources in developing the domains
5 over a time period of four years when Plaintiff did nothing to contest the
6 registrant's ownership of the <denso.com> domain.
7

8 3. Plaintiff will not be able to establish valid trademark rights nor bad
9 faith necessary to prevail on its ACPA claim.
10

11 4. Plaintiff has failed to state a claim upon which can be granted under
12 the ACPA against the Defendant Domain name's current registrant.

13 5. Defendant has waived its claim to the subject domain name in
14 allowing the domain registration to lapse due to its own neglect and become
15 available to other registrants.
16

17 6. The current registrant of the domain name, <densoft.com>, Densoft
18 Consultancy Services, Ltd, is a bona fide purchaser of the Defendant domain
19 therefore Plaintiff can have no valid rights to the subject domain.
20

21 7. Venue is or will become improper or inconvenient in this forum due
22 to the current <denso.com> registrant's location in the United Kingdom.
23

24 8. Plaintiff has failed to properly effect service of process against the
25 Defendant for failing to comply with the publication requirements under 15
26 U.S.C. 1125(d)(2)(A) of the ACPA.
27
28

1 Defendant reserves the right to add additional Affirmative Defenses that
2 become known through discovery.

3
4 Respectfully submitted this 7th day of January, 2014.

5 /s/Enrico Schaefer

6 Enrico Schaefer (*Pro Hac Vice*)

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CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of January, 2014, I electronically filed the foregoing Defendant's Answer to Amended Complaint and Affirmative Defenses with the Clerk of the Court using the CM/ECF System.

/s/ Enrico Schaefer

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